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8 IN THE UNITED STATES DISTRICT COURT  
9 EASTERN DISTRICT OF CALIFORNIA  
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11 JOSH ADLER, DAVID ALLEN, )) CASE NO. 2:05-cv-0918-MCE-GGH  
12 LEONA ALLEN, MARK ALLEN, ))  
SCHYLER BEATY, RICHARD )) **STIPULATION RE APPROVAL OF**  
13 CANALE, LINDA CLARK, )) **SETTLEMENT AGREEMENT AND**  
MICHAEL DENTE, KAREN )) **DISMISSAL WITH PREJUDICE**  
14 EXTRUM, RHETT GANN, )) **AND ORDER THEREON**  
ROBERT HEINDL, ROBERT ))  
15 HIGHT III, THERESA HIGHT, ))  
JESSICA HLEBAKOS, ROBERT ))  
16 HUMPHREY, REBECCA INMAN, ))  
DONNA KINGMAN-SILVA, ))  
17 BRYAN KUHLMANN, SHANNON ))  
LANEY, DEANNA LEWIS, RICK ))  
18 MARTINEZ, BRIAN MCGUCKIN, ))  
ALLEN MOLESWORTH, ))  
19 CHARLES OWENS, JEFF ))  
REAGAN, ROBERT REFER, KORY )  
20 RODRIGUEZ, ALEX  
SCHUMACHER, BRODIE  
21 SEAGRAVE, CANDICE SILVA,  
CHRISTINE SNEAD, ROD ST.  
22 CLAIR, MARK TAPPEN, PHILLIP  
WILLIAMS, SCOTT WILLSON,  
23 acting for themselves and others  
similarly situated

24 Plaintiffs

25 v.

26 CITY OF SOUTH LAKE TAHOE,  
Defendant.  
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3 **STIPULATION**

4 The Plaintiffs and Defendant in the above-captioned action hereby stipulate as follows:

5 1. Plaintiffs Josh Adler, et al. (collectively "Plaintiffs") are presently or were  
6 previously employed by the City of South Lake Tahoe ("Defendant"). In addition  
7 to the Plaintiffs individually-named on the caption, Gregory Evans and Johnny  
8 Poland have joined as Plaintiffs. Plaintiffs and the Defendant shall be collectively  
referred to as "Parties" herein.

9 2. Plaintiffs filed the above captioned action ("Action") arising out of certain events  
10 that allegedly occurred during their employment by the City of South Lake Tahoe.

11 3. Plaintiffs' Complaint to the Action for violation of the Fair Labor Standards Act  
12 ("Complaint"), alleges violations of the Fair Labor Standards Act (29 U.S.C. §  
13 201 et seq.) ("FLSA"). The Complaint seeks recovery of allegedly unpaid  
14 overtime, liquidated damages, attorneys' fees and costs. The Court has  
15 jurisdiction over the subject matter of this action and over the parties.

16 4. The Defendant filed an Answer to the Complaint denying its material allegations  
17 and asserting affirmative defenses thereto.

18 5. The Court has not certified the Action as a collective action nor has notice been  
19 sent to any potential class members providing them with the opportunity to either  
20 "opt-in" or "opt-out" of the Action.

21 6. The Plaintiffs' claims are in all respects controverted, and the Parties dispute  
22 whether FLSA cases are subject to class actions, the applicability of the FLSA to  
23 the facts as alleged in the Complaint, as well as the applicable level of  
24 compensation, and all other claims, allegations and requests for damages; and

25 7. The Parties have engaged in extensive negotiations in an attempt to resolve their  
26 differences, and throughout these negotiations all Parties were, and continue to

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1 be, represented by counsel experienced in wage and employment matters.

2 8. The Parties wish to avoid the potential uncertainty, expense and delay of litigation  
3 and have therefore, based upon their extensive negotiations, agreed to a  
4 settlement of the Parties' dispute. The terms of the Parties' agreement are  
5 embodied in the Settlement Agreement and General Release of All Claims  
6 ("Settlement Agreement") which all Parties have executed. A copy of the  
7 Settlement Agreement is attached hereto and incorporated herein;

8 9. Plaintiffs' potential recovery at trial, if any, remains unknown, but the Parties  
9 believe that the terms of the Settlement Agreement are consistent with and within  
10 the range of reasonable result that Plaintiffs might expect to obtain after a trial;

11 10. Courts have determined that the provisions of the FLSA are mandatory and  
12 cannot generally be abridged by contract or otherwise waived. *Lynn's Food*  
13 *Stores, Inc. v. United States*, 679 F.2d 1350, 1352 (11th Cir. 1982). However,  
14 when employees bring a private action for compensation under the FLSA, and  
15 present the district court a proposed settlement, the district court may enter a  
16 judgment after scrutinizing the settlement for fairness. *Id.* at 1353;

17 11. The Parties present the Court with this Stipulation re Approval of Settlement  
18 Agreement and Dismissal with Prejudice and [Proposed] Order Thereon  
19 ("Stipulation and Order") through which they intend to finally resolve all claims  
20 asserted in this Action based upon the Settlement Agreement;

21 12. By entering into this Stipulation and requesting Court approval, the Parties do not  
22 intend that the Court should make any findings or determination regarding the  
23 Defendant's alleged violation of the FLSA, or any other federal or state law,  
24 regulation, order, or rule. This Stipulation and Order, and any exhibits and any  
25 other documents or written materials prepared in conjunction with this Stipulation  
26 and Order, should not constitute evidence of, or any admission of, any violation of  
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1 the FLSA, or any other federal or state law, regulation, order, or rule by any  
2 Party.

3 13. The Parties jointly request the Court approve of and enter the Stipulation and  
4 Order; IT IS THEREFORE STIPULATED, by and between the Parties, through  
5 their respective counsel, that:

- 6 1. The Settlement Agreement which is incorporated herein by reference, is  
7 fair, reasonable and just in all respects as to the Plaintiffs, and the Court  
8 should therefore approve the Settlement Agreement and enter this  
9 Stipulation and Order;
- 10 2. The Court should expressly reserve jurisdiction with respect to this Action  
11 for the purposes of enforcing the Settlement Agreement;
- 12 3. The award of and allocation of costs and attorneys fees should be as  
13 provided for in the Settlement Agreement;
- 14 4. Upon the Court's approval of the Settlement Agreement, this Action  
15 should be dismissed with prejudice.

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17 Dated: April \_\_, 2006

**MASTAGNI, HOLSTEDT, AMICK,  
MILLER, JOHNSEN & UHRHAMMER**

18  
19 By:  
20 DAVID E. MASTAGNI  
21 Attorneys for Plaintiffs

22 Dated: April \_\_, 2006

**LIEBERT, CASSIDY, WHITMORE**

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24 By: \_\_\_\_\_  
25 CYNTHIA O'NEILL  
26 Attorney for Defendant

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**ORDER**

1 The Court has carefully reviewed the Settlement Agreement, and the proposed  
2 Stipulation and Order. Based upon a review of the record, and good cause appearing,  
3 IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

- 4 1. The Settlement Agreement, which is incorporated herein by reference, is  
5 approved as fair, reasonable and just in all respects as to the Plaintiffs, and the  
6 Parties shall perform the Settlement Agreement in accordance with its terms;
- 7 2. The Court expressly reserves jurisdiction with respect to this Action for the  
8 purposes of enforcing the Settlement Agreement;
- 9 3. The award of and allocation of costs and attorneys fees shall be as provided for  
10 in the Settlement Agreement;
- 11 4. The Court has made no findings or determination regarding the Defendant's  
12 alleged violation of the FLSA, or any other federal or state law, regulation, order,  
13 or rule, and this Stipulation and Order and any exhibits and any of the other  
14 documents or written materials prepared in conjunction with this Stipulation and  
15 Order shall not constitute evidence of, or any admission of, any violation of the  
16 FLSA, or any other federal or state law, regulation, order, or rule;
- 17 5. This Action is hereby dismissed with prejudice.

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19 Dated: June 20, 2006

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MORRISON C. ENGLAND, JR.  
UNITED STATES DISTRICT JUDGE